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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,166	08/02/2001	Richard Dyott	KVC-038.01	7202
25181	7590	01/31/2005	EXAMINER LE, THANH TAM T	
FOLEY HOAG, LLP PATENT GROUP, WORLD TRADE CENTER WEST 155 SEAPORT BLVD BOSTON, MA 02110			ART UNIT 2839	PAPER NUMBER

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/921,166	Applicant(s) DYOTT ET AL.	
	Examiner Thanh-Tam T. Le	Art Unit 2839	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/22/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The RCE that filed on 11/22/04 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 6, 14 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Dyott (6,539,134).

Regarding claim 14, Dyott, figure 2, discloses an optical fiber with reduced effects of linear birefringence, comprising a length of optical fiber (12), the fiber comprising a twist (14) separating the fiber into a plurality of fiber sections and the twist is formed by heating the fiber (column 5, lines 29-34).

Regarding claim 17, the optical fiber is a circular-cored single-mode fiber.

Regarding claim 18, an orientation of the fiber is maintained along the plurality of sections separated by the twist.

Regarding claims 1 and 6, the features in the method claims are identical to those in the apparatus claims. Therefore, the method of reducing the effect of linear birefringence in an optical fiber alone is not a patentable feature.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, 7-11, 13, 15-16 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyott (6,539,134).

Regarding claims 15-16 and 19-21, Dyott discloses the instant claimed invention as described above except for the twist angle between sections is substantially or equal 90 degrees.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Dyott to have the twist angle between sections is substantially or equal 90 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. In re Aller, 105 USPQ 233, for better twisting.

Regarding claims 2-5, 7-11 and 13, the features in the method claims are identical to those in the apparatus claims. Therefore, the method of reducing the effect of linear birefringence in an optical fiber alone is not a patentable feature.


Response to Arguments

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh-Tam T. Le whose telephone number is 571-272-2094. The examiner can normally be reached on 7:30-5:00.
8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TC Patel can be reached on 571-272-2098. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL.
01/26/05.


T. Le